crimes in Virginia, it has been held, with the principal case, that the overt act, composing one of the two essential elements of an attempt, need not be the last proximate act prior to the consummation of the felony attempted to be perpetrated. *Uhl's Case*, 6 Gratt. 706; *Glover's Case*, 86 Va. 382, 10 S. E. 420. As to the intent with which the act must be done, see *Hick's Case*, 86 Va. 225, 9 S. E. 1024, 19 Am. St. Rep. 891; and notes to sec. 3888, Va. Code 1904. See, also, 6 Va. Law Reg. 120. C. B. G.

BANKRUPTCY—STATUTORY LIEN—FILED AFTER DEBTOR'S ADJUDICATION AS A BANKRUPT.—A statutory lien, filed within the time prescribed by the statute, is protected if otherwise valid, although not filed until after the debtor's adjudication as a bankrupt. *In re Lillington Lumber Co.*, 13 Am. B. R. 153. See, also, *Fehling* v. *Goings*, 13 Am. B. R. 154; *Crane* v. *Smythe*, 11 Am. B. R. 747; *Matter of Roeber*, 9 id. 778; *In re Mero*, 12 id. 171.

BANKRUPTCY—EFFECT OF DISCHARGE UPON AN ASSIGNMENT OF WAGES MADE PRIOR TO ADJUDICATION AS BANKRUPT.—The right to enforce an assignment of wages to be earned in the future, made by the assignor prior to his adjudication as a bankrupt, is not affected by his discharge in bankruptcy. *Mallin* v. *Wenham*, 13 Am. B. R. 210.

BANKRUPTCY—EFFECT OF DEATH OF ALLEGED BANKRUPT ON PROCEEDINGS.—Proceedings in bankruptcy do not abate upon the death of the alleged bankrupt, after the petition is filed and before adjudication. *Matter of Spalding*, 13 Am. B. R. 223.

BANKRUPTCY—CLAIM AGAINST CORPORATION FOR CONTRACT WHICH WAS ULTRA VIRES NOT PROVABLE.—A corporation organized to buy and sell lumber at wholesale and retail, and all other manufactured building material, is not authorized to guarantee the completion of a building contract by one to whom it expects to furnish lumber; such a contract, if entered into, is *ultra vires*, and a claim based thereon is not provable against its estate in bankruptcy by the owner of the building on the contractor's default. *In re Smith Lumber Co.*, 13 Am. B. R. 118.

CONTEMPT—PUBLICATION CONCERNING TERMINATED CAUSE—CRITICISM OF A VA. CASE.—The *Columbia Law Review* for March, 1905 (5 C. L. R., p. 249), contains the following editorial note:

"The defendant had been convicted on a criminal prosecution. After judgment rendered and payment of fine by the defendant, he published in a newspaper an article charging that the indictments were found under the influence of the judge, and that he was actuated by vicious motives in the conduct of the case. *Held*, that the defendant was guilty of contempt. (*Burdett* v. *Commonwealth*, Va. 1904, 48 S. E. 878.)

"As the origin of the offense of criminal contempt lay in the fiction that the king in the person of his judges presided over the Courts of Westminster (*Neel* v. *State*, 1849, 9 Ark. 259, 264), and that contemptuous conduct toward them was a mild

form of treason (3 Columbia Law Review, 45), in England scandalization of the court, not with reference to a pending cause, constitutes contempt (*Queen* v. *Gray*, 1900, 2 Q. B. 36). In the United States, however, the idea of offense to the sovereign was supplanted by the idea of interference with the administration of justice, to prevent which the court possesses the inherent power to punish for contempt (*Ex parte Robinson*, 1873, 19 Wall. 505; *Cartwright's Case*, 1873, 114 Mass. 230; *Watson* v. *Williams*, 1858, 36 Miss. 331). Interference with the administration of justice, therefore, should be the test of criminal contempt, whether the interference be with a pending cause or with the future course of justice (4 Bl. Com. 285). But the general rule in the United States is that a libelous attack on a court concerning a cause already terminated is not a criminal contempt (*Storey* v. *People, &c.*, 1875, 79 Ill. 45; *Cheadle* v. *State*, 1886, 110 Ind. 301; *Rosewater* v. *State*, 1896, 47 Neb. 630). From the effect of such act on the course of justice it is hard to see why the distinction exists (*State* v. *Morril*, 1855, 16 Ark. 384. See *Com.* v. *Dandrige*, 1824, Va. Cas. 408, 421). The principal case would seem to adopt the better rule."

This recent Virginia decision has been somewhat widely commented upon, and the above is the first expression of approval of it which has come to our notice. We are unable to concur in the views of the *Columbia Law Review*, believing that the general policy prevailing in the United States is to be preferred to the exceptional position taken in *Burdett* v. *Commonwealth*. As the power to punish for contempt is inherent in the court and exempt from legislative interference, it was clearly competent for the courts to modify the English rule and limit the exercise of their own authority so as to embrace only publications relating to pending causes. Furthermore, under the essential spirit of democratic government, the courts would seem to be under a moral obligation not to extend a power, always somewhat arbitrary, beyond the strict necessities for its exercise. There is no doubt that courts as well as juries may be influenced or intimidated by defamatory or abusive utterances. The rule that a publication concerning a pending matter may be treated as a contempt is therefore proper and expedient. Of course, in one sense it is true that libels uttered after the termination of causes may affect the general course of the administration of justice, but here a counter consideration arises. It is not for the best interests of the people that the judiciary should be entirely exempt from criticism by the ordinary organs of public opinion. Occasionally it is proper to take a court to task for a particular decision—after it has been rendered and the matter has been closed. To permit the courts indefinitely to muzzle the press, both as to general course of conduct and particular actions, would, in our judgment, militate much more against the pure administration of justice than does the recognition of the general right of criticism.—*New York Law Journal.*

NEGLIGENCE AND THE ACT OF GOD (Criticising *Herring* v. *C. & W. R. R.*, 101 Va. 778).—The recent decision of the Court of Civil Appeals of Texas in *Chicago etc. Ry.* v. *Cain* (December, 1904, 84 S. W. 683) is worthy of note as tending to support the contention that where the negligence of a carrier concurs with an Act of God in causing injury the carrier is liable. In one sense it might